

~~DISTRICT~~
~~BANKRUPTCY~~
 UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK

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In re

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

Adv. Pro. No. 08-1789 (BRL)

SIPA LIQUIDATION

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff
Investment Securities LLC,

Plaintiff,

v.

Adv. Pro. No. 09-1364 (BRL)

HSBC BANK PLC; HSBC HOLDINGS PLC;
 HSBC SECURITIES SERVICES
 (LUXEMBOURG) S.A.; HSBC
 INSTITUTIONAL TRUST SERVICES
 (IRELAND) LIMITED; HSBC SECURITIES
 SERVICES IRELAND LIMITED; HSBC
 INSTITUTIONAL TRUST SERVICES
 (BERMUDA) LIMITED; HSBC BANK USA,
 N.A.; HSBC SECURITIES SERVICES
 (BERMUDA) LIMITED; HSBC BANK
 (CAYMAN) LIMITED; HSBC PRIVATE
 BANKING HOLDINGS (SUISSE) S.A.;
 HSBC PRIVATE BANK (SUISSE) S.A.;
 HSBC FUND SERVICES (LUXEMBOURG)
 S.A. HSBC BANK BERMUDA LIMITED;
 HERALD FUND SPC; HERALD (LUXO
 SICAV; PRIMEO FUND; ALPHA PRIME
 FUND LIMITED; SENATOR FUND SPC;
 HERMES INTERNATIONAL FUND
 LIMITED; LAGOON INVESTMENT
 LIMITED; THEMA FUND LTD.; THEMA
 WISE INVESTMENTS LTD.; THEMA
 INTERNATIONAL FUND PLC; GEO

USDC SDNY
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 ELECTRONICALLY FILED
 DOC #:
 DATE FILED: 8/8/11

No. 11 Civ. 763 (JSR)

No. 11 Civ. 836 (JSR)

CURRENCIES LTD. S.A.; HERALD ASSET
MANAGEMENT LIMITED; 20:20 MEDICI :
AG; UNICREDIT BANK AUSTRIA AG; BA
WORLDWIDE FUND MANAGEMENT :
LIMITED; EUROVALEUR, INC.; PIONEER
ALTERNATIVE INVESTMENT x
MANAGEMENT LIMITED; ALPHA PRIME :
ASSET MANAGEMENT LTD.; REGULUS
ASSET MANAGEMENT LIMITED;
CARRUBA ASSET MANAGEMENT
LIMITED; GENEVALOR, BENBASSAT ET
CIE; MERMES ASSET MANAGEMENT
LIMITED; THEMA ASSET MANAGEMENT
(BERMUDA) LTD.; THEMA ASSET
MANAGEMENT LTD.; EQUUS ASSET
MANAGEMENT LTD.; EQUUS ASSET
MANAGEMENT PARTNERS, L.P.;
AURELIA FUND MANAGEMENT
LIMITED; URSULA RADEL-
LESZCZYNSKI; SONJA KOHN; ERWIN
KOHN; MARIO BENBASSAT; ALBERTO
BENBASSAT; STEPHANE BENBASSAT;
DAVID T. SMITH; ROBERTO NESPOLO;
LAURENT MATHYSEN-GERST; OLIVIER
ADOR; PASCAL CATTANEO; VLADIMIR
STEPCZYNSKI; JEAN-MARC WENGER;
LAGOON INVESTMENT TRUST;
UNICREDIT S.p.A.; INTER ASSET
MANAGEMENT, INC.; GTM
MANAGEMENT SERVICES CORP.N.V.;
T+M TRUSTEESHIP & MANAGEMENT
SERVICES S.A.; AURELIA ASSET
MANAGEMENT PARTNERS; CAPE
INVESTMENT ADVISORS LIMITED; AND
TEREO TRUST COMPANY LIMITED,

Defendants

 **PROPOSED ORDER**

WHEREAS, on April 25, 2011 this Court issued an order (the
"Withdrawal Order") withdrawing the reference of adversary proceeding No. 09-1364

{N0278456; 1}

(BRL) (the "Adversary Proceeding") from the Bankruptcy Court for the purpose of resolving certain specified issues (the "Withdrawal Issues") set forth in the Withdrawal Order;

WHEREAS, on July 28, 2011, this Court issued an Opinion and Order dismissing the Trustee's common law claims, *i.e.*, Counts 20-24 of the Amended Complaint (as that term is defined in the Opinion and Order), against the "HSBC Defendants" and the "UCG/PAI Defendants" as those terms are defined in the Opinion and Order;

WHEREAS, the Opinion and Order stated in footnote 8 that "Although it seems clear that these claims would also have to be dismissed against any other defendants who appeared and so moved, no other such defendant has so moved.";

WHEREAS, UniCredit Bank Austria AG ("Bank Austria") has requested that the Court *nunc pro tunc* modify the Opinion and Order to include a dismissal of the Trustee's common law claims against Bank Austria; and

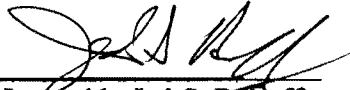
WHEREAS, no party has objected to the request:

IT IS HEREBY ORDERED:

1. Bank Austria's application is granted;
2. This Court's Opinion and Order dated July 28, 2011 is amended *nunc pro tunc* to include a dismissal of all of the Trustee's common law claims, *i.e.*, Counts 20-24 of the Amended Complaint, against Bank Austria; and
3. The Clerk of the Court is directed to take such steps as are necessary to file this Order in the cases 11 Civ. 763 (JSR) and 11 Civ. 836 (JSR).

DATED: August 6, 2011
New York, New York

SO ORDERED:



Honorable Jed S. Rakoff
United States District Judge